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PACIFIC  **TELESIS**
Group - Washington

October 11, 1996

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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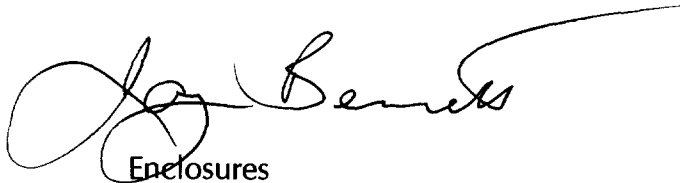
Dear Mr. Caton:

Re: *CC Docket No. 96-113, Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses*

On behalf of *Pacific Bell*, please find enclosed an original and six copies of it "*Reply Comments*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,


Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 11 1996

Federal Communications Commission
Office of Secretary

In the Matter of

Section 257 Proceeding to Identify
and Eliminate Market Entry Barriers
for Small Businesses

CC Docket No. 96-113

REPLY COMMENTS OF PACIFIC BELL

Pacific Bell respectfully replies to comments filed in response to the Commission's Notice of Inquiry concerning implementation of Section 257 of the 1996 Telecommunications Act¹ in the above captioned docket.² The Commission's NOI has stimulated far ranging comment. We limit our reply comments and respond specifically to unwarranted allegations of market barriers by Pacific Bell.

I. VOICE-TEL'S ALLEGATIONS ARE INCORRECT AND MISLEADING

Voice-Tel alleges that LEC practices discriminate against competitors.³ However, Voice-Tel's allegations about Pacific Bell's specific practices are factually incorrect and

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

² *Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses*, GN Dkt. No. 96-113, *Notice of Inquiry*, rel. May 21, 1996 ("NOI").

³ Comments of Voice-Tel in Response to Notice of Inquiry, August 23, 1996, p. 14.

substantively misleading. For example, objecting in general to the pricing of LEC services, Voice-Tel relates alleged practices in Pacific Telesis territory to show that pricing for blocks of numbers for paging services and for voice messaging services differ.⁴ Voice-Tel then draws the conclusion that this practice disadvantages Voice-Tel vis-a-vis its paging competition and its LEC competitors. First, Voice-Tel compares apples and oranges -- paging service components and voice messaging service components. The fact that blocks of numbers are needed for both service offerings is irrelevant to how a company chooses to price components of those two distinct and separate services. Companies establish different pricing structures for different services. Pacific Bell's pricing for paging services is the result of directives by the Commission and the California Public Utilities Commission ("CPUC") that prices to paging and cellular co-carriers must be cost based.⁵ No such requirement exists for business exchange services used by voice mail providers.

Voice-Tel incorrectly claims that Pacific Bell's pricing favors its own voice mail service but Voice-Tel conveniently ignores the fact that Pacific Bell does not itself provide voice mail services. In dealings with our voice messaging affiliate, Pacific Bell Information Services ("PBIS"), we are bound by the Commission's affiliate transaction rules.⁶ Accordingly, we charge our affiliate tariffed prices if the provided service is tariffed. Pacific Bell's Enhanced Service

⁴ Pacific Telesis territory includes franchise areas in both California (served by Pacific Bell) and Nevada (Nevada Bell). Voice-Tel does not identify which company it refers to in its comments.

⁵ *Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, Report No. CL-379, *Memorandum Opinion and Order and Order on Reconsideration*, 4 FCC Rcd 2369 (1989); *In Re Regulation of Cellular Radiophone Utilities*, Decision 90-06-025, 36 CPUC 2d 464 (1990).

⁶ 47 C.F.R. 64.903; 47 C.F.R. 32.37.

Provider Services (which includes elements used by voice mail providers) are tariffed in the state jurisdiction.⁷ The same rate applies to all enhanced service providers (“ESP”). There is no reduced rate for our affiliate. Thus, the Commission's affiliate transaction rules fully protect against the kind of pricing discrimination that Voice-Tel erroneously alleges. Specifically, in the case of DID numbers, PBIS buys DID numbers at the same tariffed rate as any other voice messaging ESP.

Similarly, Voice-Tel raises issues about stutter dial tone service. Voice-Tel incorrectly implies that Pacific Bell's prices for stutter dial tone favors its own provision of voice messaging.⁸ Pacific Bell offers stutter dial tone service to any ESP pursuant to tariff, including our voice messaging affiliate.⁹ PBIS is charged no more and no less than Voice-Tel for stutter dial tone capability. Finally, the price and terms and conditions that PBIS charges its end users are not determined by Pacific Bell. PBIS determines its own rates which are set forth in tariffs filed with the CPUC.¹⁰

Voice-Tel's allegations about the Escape to Operator feature also are factually incorrect. Here, it has both the provider and price wrong. PBIS, not Pacific Bell, offers an Escape to Operator feature (which is called “Transfer to Attendant”) for \$2.95 a month, not \$2.00. This feature is a function of PBIS' voicemail system, not a feature capability purchased from Pacific Bell. In summary, Voice-Tel's allegations of market barriers related to Pacific Bell's practices are unfounded.

⁷ Schedule Cal. P.U.C. No. A5.11.1

⁸ Voice-Tel Comments, p. 14.

⁹ Schedule Cal. P.U.C. No. A5. 11. 1.

¹⁰ Schedule Cal. P.U.C. No. D.

II. THE RECORD DEMONSTRATES OUR SOLID SUPPORT OF WOMEN-OWNED BUSINESSES

AWRT and WOW¹¹ describe in general the market entry barriers faced by women-owned businesses but they single out utilities from only one state. While admitting that California companies generally meet the "procurement goal for women of 5%" mandated by the CPUC, they fault us for failing to meet their self-appointed measure of success, "a level [of procurement] representative of the number of women-owned firms" without explaining this measure or why it is meaningful. In particular, AWRT and WOW point to Pacific Bell as ranking low among California regulated telecommunications companies in purchases from women-owned companies. First, what the chart means is not clear but even the chart shows that Pacific Bell's 8% average procurement from women-owned firms (that meet the stringent certification required by the CPUC Clearinghouse) far exceeded the CPUC's mandated 5% level. Our procurement also surpassed Congress's comparable goal of 5% for federal agencies. Our 8% achievement is very significant because of our large procurement base.¹² In fact, Pacific Bell has spent more actual dollars on procurement from women-owned businesses than any other public utility in California. We are proud of our support of women-owned businesses, as well as minority-owned and disabled veteran-owned businesses. Our commitment to actively support these businesses is proven by our record. We intend to continue our efforts in support of the participation of

¹¹ Comments of American Women in Radio and Television Inc. ("AWRT") and Women of Wireless ("WOW").

¹² In 1995, 7.36% of our procurement was from women-owned business enterprises. That amounted to \$199M.

businesses owned by women, minorities and disabled veterans in the telecommunications industry.

III. ISSUES UNDER CONSIDERATION IN OTHER PROCEEDINGS SHOULD NOT BE RECONSIDERED IN THIS PROCEEDING

Several commenters raise issues in this docket which are topics in other major proceedings currently underway before the Commission. For example, Voice-Tel raises issues that it extensively briefed for the Commission in other proceedings such as CC Docket Nos. 96-149 and 96-150. Similarly, ADP asserts that LEC practices concerning subscriber list information present market barriers to small businesses.¹³ ADP admits that §222(e) of the 1996 Act directly addresses the issues it raises in this proceeding. The Commission established CC Docket No. 96-115 to address the implementation of §222. ADP fully participated in that proceeding.¹⁴ In fact, ADP raised the same issues in Dkt. 96-115 and the record therein reflects responses to each of ADP's demands to implement §222(e).¹⁵ ADP does not raise any new topics in this proceeding that merit additional consideration by the Commission. By repeating their allegations and demands, ADP and Voice-Tel unnecessarily burden the Commission. The

¹³ Comments of the Association of Directory Publishers ("ADP").

¹⁴ *Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Dkt. No. 96-115, *Notice of Proposed Rulemaking*, rel. May 17, 1996; ADP Comments, June 11, 1996; ADP Reply Comments, June 26, 1996.

¹⁵ For example, in Dkt 96-115, the Yellow Page Publishers Assn ("YPPA") Comments responded to ADP's timing claims (p. 5), as did Ameritech's Comments (p. 18) and SBC (p. 17). Ameritech (p. 17, 18) also responded to the issue of primary business classifications. YPPA's comments discuss unbundled information (p. 6) and the availability of updates (p. 11). The issue of unpublished information to be used in delivery falls outside the definition of subscriber list information as defined by the 1996 Act. The price of subscriber list information was addressed in GTE's comments (pp. 18, 19) and in Sprint's Reply Comments (p. 10).

redundant comments should be set aside here and considered in the dockets primarily established to examine those issues.

Respectfully submitted,

PACIFIC TELESIS GROUP

A handwritten signature in cursive script, reading "Lucille M. Mates", positioned above a horizontal line.

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Date: October 11, 1996

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